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STATE
STATUTES
SERIES

*Current Through
March 2004*

Court Jurisdiction and Venue for Adoption Petitions

Adoption is a legal process for making a child a permanent member of a family other than the child's birth family. This legal process falls under the jurisdiction of a court of law in the State where the adoption occurs.

Jurisdiction

Every State maintains a court system in which different courts are designated to hear specific types of cases. That designation is what is meant by the term "jurisdiction." For example, criminal cases will be tried in a State criminal court. Adoption is a civil procedure, and at the State court level, certain civil courts are given jurisdiction over adoption cases. A

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U.S. Department of Health and Human Services
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau



Child Welfare Information Gateway
Children's Bureau/ACYF
1250 Maryland Avenue, SW
Eighth Floor
Washington, DC 20024
703.385.7565 or 800.394.3366
Email: info@childwelfare.gov
www.childwelfare.gov

Examples of Jurisdiction

person who seeks to adopt a child must file his or her petition for adoption with the appropriate court.

All 50 States, the District of Columbia, and the U.S. Territories of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands specify in their statutes one or more types of court that have jurisdiction over adoption cases.

State courts are organized in a hierarchy of courts of original jurisdiction, which is the level at which cases are first heard, and appellate courts, which hear cases that have been appealed from lower courts. The names given to these courts vary from State to State. All adoption cases commence with a petition filed with the appropriate court of original jurisdiction.

The types of court designated as the court of original jurisdiction reflect the organization of the State court system, and the names can include:

- Circuit court, used in 11 States¹
- District court, used in 8 States and 2 Territories²
- Superior court, used in 7 States, 1 Territory, and the District of Columbia³
- Probate court, used in 8 States⁴
- Family court, used in 5 States⁵
- Juvenile court, used in 3 States⁶

Some other names used are equity (Maryland), chancery (Mississippi), court of common pleas (Pennsylvania), county (Nebraska), trial (Northern Mariana Islands), territorial (Virgin Islands), and court of first instance (Puerto Rico).

¹ Arkansas, Florida, Illinois, Kentucky, Michigan, Missouri, Oregon, South Dakota, Virginia, West Virginia, and Wisconsin.

² Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Wyoming, American Samoa, and Puerto Rico.

³ Alaska, Arizona, California, Georgia, New Jersey, North Carolina, Washington, and Guam.

⁴ Alabama, Connecticut, Indiana, Maine, Massachusetts, New Hampshire, Ohio, and Vermont.

⁵ Delaware, Hawaii, New York, Rhode Island, and South Carolina.

⁶ Colorado, Louisiana, and Minnesota.

In some States, more than one court may have jurisdiction over adoption cases, that is, either court designated in statute may hear an adoption petition. For example, in Iowa, either the juvenile or district court has jurisdiction, while in New York, either the family court or surrogate's (probate) court has jurisdiction. Either the chancery or circuit court has jurisdiction in Tennessee, while in Texas, a district court, juvenile court, or other court having jurisdiction of a suit affecting the parent-child relationship can hear an adoption petition.

In some States, other courts may have jurisdiction over an adoption case under specific circumstances. For example, in six States (Alabama, California, Georgia, Massachusetts, Nebraska, and Utah), the juvenile court will have jurisdiction if the child to be adopted has previously been placed under that court's supervision or if that court handled the case of termination of the parent's rights. In Nevada and New Mexico, if the child to be adopted is an Indian child, a Tribal court may have jurisdiction over the case. The trial division of the high court has jurisdiction over contested adoptions in American Samoa.

Venue

Venue refers to the geographic location of the court that will hear the case. Most States, Puerto Rico, and the Virgin Islands maintain courts of all types located in different counties or districts throughout the State or Territory.⁷ Petitions for adoption are filed in the type of court that has the appropriate jurisdiction at the location (or venue) that is convenient to the parties involved in the case. In many cases, there may be a residency requirement. Venue options include the county where the person seeking to adopt (petitioner) and/or the child to be adopted reside, or where the child-placing agency is located.

An attorney experienced with a State's adoption laws can assist a person seeking to adopt in drafting the adoption petition and making sure that the petition is filed with the court having the appropriate jurisdiction and venue.

⁷ Rhode Island, the District of Columbia, American Samoa, Guam, and the Northern Mariana Islands, due to their small geographic areas, have one court that handles adoption petitions. For this reason, the statutes do not specify venue.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.